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HUMAN RIGHTS COMMITTEE

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SUMMARY RECORD OF THE 1622nd MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 23 October 1997, at 10 a.m.

Chairperson: Ms. CHANET

later: Ms. MEDINA QUIROGA

later: Ms. CHANET

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The meeting was called to order at 10.20 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Second periodic report of Jamaica (CCPR/42/Add.15; HRI/CORE/1/Add.82; CCPR/C/61/JAM/4).

1. At the invitation of the Chairperson, Mr. Rattray and Mr. Prescot took places at the Committee table.

2. Mr. RATTRAY (Jamaica), introducing the second periodic report (CCPR/C/42/Add.15), expressed his deep regret at the delay in submitting the report, which had been due to unforeseen difficulties of coordination. As head of the Jamaican delegation and Solicitor-General of Jamaica, he said that his Government was nevertheless fully conscious of the importance of the relevant time limits, since the periodic reports provided an opportunity for making an assessment and engaging in a dialogue with the Committee. In his statements, he would confine himself to highlighting a number of important facets of the report and would endeavour to give all necessary clarification when he came to reply to the questions on the list of issues. He would not, however, be able to answer all the questions since he had not received the final list until very recently, on his arrival in Geneva; he had therefore been unable to obtain from Kingston the numerous statistics requested in the list.

3. In order to consider the report of a country like Jamaica, above all else it was necessary to bear in mind the economic, social and cultural framework of the implementation of the Covenant. Jamaica was a developing country and proud of its human rights record; the fundamental rights proclaimed in the Covenant must be considered as a minimum standard of achievement for all nations and all peoples. His Government spared no effort to go beyond that acknowledged minimum but, for the purposes of the exercise of certain rights, economic, social and cultural conditions could not be disregarded. In order to attain a high level of exercise of rights, considerable expenditure was required, but the necessary resources were not available in a developing country, which could not divert certain resources in order to improve the lot of some while others - the majority - went hungry or were without essential health services. For example, although an acceptable minimum could be agreed on for prison conditions, certain standards of comfort which the developed countries could afford for prisoners were totally beyond the reach of a developing country, which should not therefore be criticized for violating its obligations under article 10 of the Covenant. It would be incongruous for persons lawfully imprisoned to be entitled to treatment which the State's limited resources prevented it from according to many who lived in liberty.

4. The legal and constitutional framework within which the Covenant was implemented was explained at length in the report and, on the occasion of its consideration of the first periodic report, the Committee had taken the view that the provisions in force had been comprehensive. Jamaica was a parliamentary democracy, in which elections were held every five years on the basis of universal suffrage. The Constitution contained a chapter (chap. III)

specifically devoted to fundamental rights, which reflected the provisions of the Covenant and contained special provisions for their enforcement. The State enjoyed no immunity from legal process before the courts; in fact, suits against it were a daily occurrence. The action of the executive was subject to judicial control, through the prerogative writs of mandamus and certiorari, and prohibition orders. The independence and impartiality of the judiciary were guaranteed by the irremovability of judges, which was provided for in the Constitution. The political opposition was vigorous and expressed itself through a multi-party system. The leader of the opposition was a constitutionally recognized position; he must be consulted on a number of matters, notably the appointment of the Chief Justice and the President of the Court of Appeal. Freedom of expression was guaranteed by the Constitution and actively exercised.

5. The factors and difficulties encountered by Jamaica in the implementation of the Covenant were primarily economic in character. Growth was not sufficient and the considerable restructuring which had taken place had accentuated the balance-of-payments difficulties and increased external debt. A number of stabilization measures had been taken: lowering of customs tariffs, structural adjustment, devaluation, privatization and liberalization. And one must not forget the damage caused in 1988 by Hurricane Gilbert, which had required considerable expenditure on reconstruction. The unemployment rate had been reduced from 27.3 per cent in 1980 to 16.2 per cent in 1995 and 15.8 per cent in 1996. Inflation had affected the standard of living of families, in particular families on low and medium incomes. The numerous structural adjustment policies had made it possible to curb currency depreciation, lower the rate of unemployment, reduce inflation - from 80.2 per cent in 1991 to 5 per cent in 1997 - and improve the balance of payments. All those factors had led to an increase in international reserves and, in 1995, had enabled his Government to cease using the extended credit facilities of the International Monetary Fund.

6. Turning to the list of issues, he would reply first to the question on equality of the sexes (question 1). Jamaican society was essentially matriarchal, and women played a decisive role in family and community affairs and increasingly, in political affairs. Jamaican women were becoming more sensitized to gender issues and the Government had therefore taken a number of legislative and practical measures, notably setting up a Bureau for Women's Affairs, a Sexual Offences Unit and a Women's Crisis Centre. The Employment (Equal Pay for Men and Women) Act made it mandatory for all employers in the private and public sectors to give equal pay for equal work and prohibited any discrimination in that respect. Any infringement constituted a criminal offence. In the public sector, there had been no known case of disparity between men and women in wages paid for the same work. Jobs in that sector were classified by function.

7. As to rights in general, section 13 of the Constitution expressly recognized that every person had the right to exercise fundamental rights and freedoms irrespective of sex. It was true that section 24 of the Constitution defined discrimination without reference to sex as a possible ground, but it seemed obvious that that section should be construed in that context. However, in order to dispel any doubt or ambiguity, the Constitutional Commission had recommended that discrimination on grounds of sex should be

expressly mentioned in the new Bill of Rights. Parliament had accepted the recommendation and a bill comprising an express provision to that effect had been drafted.

8. With regard to higher studies, it should be mentioned that the number of female university graduates was higher than the number of male graduates in all faculties, including medicine and law. Generally speaking, the academic performance of women far outstripped that of men, and there was growing concern about the underachievement of boys.

9. In the public sector, women had made significant advances, to the extent that more posts were held by women than men. There were four women ambassadors and, in Jamaica itself, there were four female permanent secretaries: in the Office of the Prime Minister, the Ministry of Education, the Ministry of National Security and Justice, and the Ministry of Legal Affairs. A woman held the post of Financial Secretary. The private sector had not, however, kept up with that trend, and although there were many women in the middle ranks, very few attained high levels of responsibility. However, the situation could be expected to improve in view of women's high level of education.

10. On the question of violence against women, a Domestic Violence Act had entered into force only on 6 May 1996, and so there was limited experience of its effect. It should be emphasized that it was gender-neutral and was aimed at preventing violence against both spouses and children, and not only against the wife. It provided remedies and protection. It gave jurisdiction to the Family Court to make protection orders so as to prohibit respondents from entering or remaining in the household of a spouse, parent, child or dependant of a respondent, entering or remaining in a specified area, entering the place of work or education of any prescribed person, and molesting such a person. For breach of the protection order the penalty on conviction was a fine or six months' imprisonment. Proceedings were held in camera and there was a right of appeal to the Court of Appeal.

11. On question 2 relating to the use of weapons by members of the police and security forces (Covenant, art. 6), he was unable to give the figures requested but would transmit them to the Committee as soon as he returned to Jamaica. As to the Tivoli Gardens incidents, he said that the police, in the course of their normal anti-drug trafficking activities, had been called to that area only to be met with automatic weapons fire. They had had to call in the army in support and, in the ensuing clash, three people had been killed. An inquiry had been opened and the case had been sent to the Director of Public Prosecutions, who had informed him that he had carefully studied the inquiry report in order to determine whether there were grounds for bringing a prosecution. The Office of the Director of Public Prosecutions was an institution set up under the Constitution and was the only authority empowered to decide whether or not proceedings should be initiated in a specific case, to the exclusion of any other authority. He acted in complete independence and was subject to no political control. He had already had occasion to initiate proceedings against police officers for abuse of authority. Consequently, if the Tivoli Gardens case was examined by him, one could be certain that action would be taken on it.

12. As to the number and nature of complaints about police treatment (question 3; Covenant, arts. 7 and 10), it should be pointed out that the Police Complaints Authority, set up in 1992, was presided over by a retired judge of the Court of Appeal. Its duty was to ensure that the inquiries into complaints about police treatment were conducted satisfactorily and it submitted an appraisal to the Commissioner of Police and the Director of Public Prosecutions. It had access to all documents and had the right of access to all premises if necessary. It also had the power to carry out direct investigations and reported to the Commissioner of Police and the Director of Public Prosecutions. Any member of the public could make a complaint about police conduct to the Authority.

13. The most recent figures (for 1996/1997) showed that there had been 107 complaints of assault, 67 for conduct unbecoming, 39 for non-action, 16 for harassment, 15 for threats, 14 for abuse of power, 12 for shooting, 10 for seizure of property, 9 for fatal shooting and 9 for other reasons. The annual figures compiled since 1992 showed that citizens made active use of the possibility of complaining to the Authority.

14. Mr. PRESCOT (Jamaica), speaking as Commissioner of Corrections, said he wished to submit information in reply to question 4 on the list of issues. In the past, the prison system had been designed more to mete out punishment than to reintegrate inmates. As head of the Department of Correctional Services for almost four years, he had set it on a new course. Its role today was to implement a broad range of educational activities and programmes aimed at reintegrating juvenile and adult prisoners into the communities to which they belonged and society as a whole. It was therefore essential that all corrections personnel should endeavour to promote rehabilitation and the implementation of the parole and probation regimes. The Correctional Services team played at least as important a role as that of counsellors, priests, families and teachers in the lives of the persons entrusted to its responsibility. Staff must therefore be duly qualified to fulfil the task entrusted to them. It was also important that they should receive all necessary support, notably from international human rights organizations. His department had an obligation to ensure security, foster rehabilitation and serve all persons entrusted to it, while maintaining a highly motivated staff characterized by integrity, commitment and professionalism.

15. The Correctional Services had established a number of programmes aimed at expanding and reinforcing the rehabilitation process. In particular, a new adult rehabilitation centre was being built. It would replace the Tower Street institution and would accommodate 1,200 inmates and 700 remandees separately. It would offer modern medical, dental and psychiatric services and education, professional counselling and training programmes. It would contain a place of worship, a gymnasium and a recreational centre. The St. Catherine Adult Correctional Centre now had a new sewage plant, along with new toilet facilities. A new medical and dental unit and a chaplaincy had also been added, and a diagnostic centre was proposed to assess new inmates for proper categorization.

16. Another programme was aimed at harnessing the energy of inmates at the island's adult correctional centres. Thus, in the context of the Correctional Services Production Company Limited (COSPROD), in which the Government owned

shares, inmates undertook paid occupations to benefit themselves and their relatives; it also sought to encourage inmates to acquire the discipline of work and to learn a professional skill which would contribute to their rehabilitation. COSPROD had initially been purely agricultural but had now diversified and should enable the various institutions to become self-sufficient in the area of food production, thereby reducing operating costs. The Correctional Services had great expectations of the programme, which had so far yielded very good results.

17. Three weeks previously, the Ministry of National Security and Justice had initiated a risk assessment programme aimed at rationally evaluating the medical, social and other problems of inmates. It was aimed at standardization, using scientific methods. It was only in its initial stages, but first results were very encouraging. At the same time, the Correctional Services had embarked on a special drive to combat indiscipline among their staff. Thus, in January 1995, 72 correctional officers had been dismissed for unprofessional conduct. Between January 1996 and October 1997 a further 57 had been dismissed for the same reason. Admittedly, not all the problems had been resolved, but the new rehabilitation-based approach should lead to a modification of the conduct of correctional personnel. That was a long-term undertaking, but he assured members of the Committee that his department was actively engaged in it.

18. On the question of the incidents of 28 February 1997 and March 1995, he requested members of the Committee to consult the detailed report (document without a symbol) which his delegation had circulated. The cases had been referred to the Director of Public Prosecutions, whose ruling was pending.

19. With specific reference to the first part of question 4 of the list (CCPR/C/61/JAM/4), he said that the Jamaican authorities ensured compliance with all the provisions of article 10 of the Covenant, and in particular those of paragraph 2 (a). Mentally ill persons on remand were separated from other remandees. Generally speaking, the authorities paid great attention to remand conditions. Admittedly, the prisons were overcrowded, but the authorities were endeavouring to ensure the best possible conditions of detention. In addition, a new remand centre was currently under construction.

20. As to conditions of detention in the Gibraltar wing of St. Catherine District Prison, he stated that only convicted prisoners were held in that wing. Although the buildings themselves had not been refurbished, conditions of detention had been improved in several respects. The number of inmates had been reduced, the lighting had been modified and inmates had access to new toilet facilities situated in another building. And there were plans to renovate the toilets in the Gibraltar wing.

21. In reply to the last part of question 4, he said that a commission of inquiry had been set up. It was presided over by a former Supreme Court judge and comprised a former police commissioner and the chairman of the Jamaican Human Rights Council.

22. On 19 August 1997, in a radio interview, he had made a statement concerning inmates who had been infected with the HIV virus at the time they had entered Jamaican prisons. That statement had been misinterpreted as

meaning that 85 per cent of inmates had already been infected on their arrival in prison. When, in the same interview, he had tried to give explanations about the measures taken in prisons to combat sexually transmissible diseases and HIV, he had been interrupted and been unable to complete his statement. The day after the broadcast, disturbances had broken out in the prisons; correctional officers had thought he had insinuated that they maintained homosexual relationships with inmates and the inmates themselves had taken his words to mean that most of them had been carriers of the AIDS virus. The violence had caused the deaths of 16 inmates and injuries to over 40. Nevertheless, the damage done to the institutions had been rapidly repaired by the Jamaican Defence Force, which had been called in, and by civilian contractors who had had a lot of work to do.

23. In his opinion, the statement he had made on the radio had not warranted the action taken by correctional officers. He deeply regretted that the incidents had caused deaths and injuries among the inmates and considerable anguish to the victims' families. He gave an assurance that every effort would be made to ensure that there was no recurrence of such incidents.

24. Ms. Medina Quiroga took the Chair.

25. Mr. RATTRAY (Jamaica), replying to question 5 of the list of issues, said that corporal punishment constituted a type of sanction authorized under section 17, paragraph 2, and section 26, paragraph 8, of the Constitution, notwithstanding the provisions of section 17, paragraph 1, which stipulated that "No person shall be subjected to torture or to inhuman or degrading punishment or other treatment". In any event, corporal punishment was imposed only in very limited circumstances and only in the conditions laid down in the Crime Prevention Act and the Flogging Regulation Act, which stipulated that flogging could take place only in private and in the presence of a medical practitioner and that flogging could be remitted and must not exceed 24 strokes. In practice, the imposition of such punishment was extremely uncommon; he could cite only two cases in the past 20 years, the first concerning a case of robbery with aggravation and the second a case of rape. In the latter case, however, in view of the circumstances in which the offence had been committed, the flogging sentence had been rescinded and the term of imprisonment reduced from 10 to 7 years.

26. The fundamental question was whether corporal punishment was compatible with observance of the provisions of article 7 of the Covenant. In that connection, he observed that any form of punishment necessarily carried a "degrading" or "humiliating" element and that, in that respect, article 7 of the Covenant could not be interpreted in an absolutely literal sense. In addition, the fact that the punishment inflicted was "corporal" did not necessarily mean that it entailed an unacceptable degree of degrading treatment. Everything depended on the individual case, the nature of the offence committed and the offender himself (e.g. whether the offence was rape, whether the perpetrator of the offence was a juvenile, etc.) and on the manner of execution, notably the precautions taken to avoid injury. Furthermore, corporal punishment could be inflicted only under a provision of the law, and its purpose was essentially deterrent, especially in cases of rape, where the person who had violated the intrinsic dignity of another person and had thus already perpetrated an act which degraded himself could hardly consider

himself to be the victim of degrading treatment when the punishment was subsequently inflicted on him. In Jamaica, public opinion generally favoured corporal punishment, which it did not necessarily regard as a form of inhuman or degrading treatment. For his part, he could affirm that the type of corporal punishment imposed in Jamaica, essentially on the perpetrators of rape and young offenders, did not constitute cruel, inhuman or degrading treatment or punishment within the meaning of article 7 of the Covenant.

27. Ms. Chanet resumed the Chair.

28. Mr. RATTRAY (Jamaica), replying to question 6 of the list of issues, said that generally speaking any person arrested and detained in a police station must be brought before a court within 48 hours of his arrest. In accordance with section 23 of the Constabulary Force Act, any police officer or lock-up officer could release the arrested person on bail if he considered such a course justified by circumstances. The justice of the peace was empowered to remand the prisoner in custody for a period not exceeding eight days. In accordance with section 54 of the Criminal Justice (Administration) Act, the Supreme Court could impose a sentence of preventive detention on a person convicted on indictment when the person concerned admitted being, or was found to be, a habitual criminal or where it was necessary that he should be kept in detention for a longer period. Preventive detention was thus a punishment imposed for reasons stipulated by the law and pursuant to the procedure defined by the law, which was consistent with the provisions of article 9, paragraph 1 of the Covenant.

29. Turning to question 7 of the list of issues relating to the admissibility of confessions, he said that any defendant could contest the admissibility of evidence in a statement purportedly made by him during his preliminary detention on the grounds that the statement had not been made by him or that it had been obtained in circumstances which infringed the Judge's Rules, including the rule that the statement must be made voluntarily.

30. In connection with question 8 concerning appeals, he explained that the average time taken to hear an appeal had been considerably shortened in recent years and was now between 9 and 12 months. In addition, a defendant could appeal against a conviction, even when the sentence for the act in question was mandatory (see paragraph 97 of periodic report CCPR/C/42/Add.15). However, no appeal lay against a fixed sentence, except where the challenge was that its execution would be inhuman or degrading on the grounds of delay or on constitutional grounds. Lastly, the appellant had the right to be present at the appeal proceedings if he so wished.

31. In reply to question 9, he said that access to legal aid had hitherto been governed by the provisions of the Poor Prisoners' Defence Act, which had provided for aid of that kind only in criminal cases. The Jamaican authorities now recognized that that aid was insufficient to meet all the situations which arose, and a new Bill completely reforming the system had therefore been submitted to Parliament; it was currently being considered in the Senate. According to the Bill, legal aid should be granted to all needy persons in both civil and criminal cases, and any person should have access to it, even before indictment.

32. Under the Bill, legal aid could be granted to any person detained in a police station, lock-up, correctional institution or similar place of detention, in accordance with the applicable regulations. The request for legal aid could be addressed to a justice of the peace, a judge or the Court of Appeal and a certificate to that effect would be issued. A roster of persons to whom an appeal could be made would be drawn up and, according to the seriousness of the offence, the defendant would be eligible to receive the services of one or more attorneys to represent him during the proceedings. The defendant must be properly represented in the light of the nature of the offence. The corresponding certificate would be issued on the basis of a means test establishing that he was unable to afford the services of a lawyer. Legal aid could therefore be obtained at all stages and for all proceedings, civil and criminal, and for constitutional motions and judicial proceedings before the Judicial Division of the Privy Council or any final court.

33. An important gap would be filled by the Bill, which had already been adopted by one of the Houses of Parliament. He hoped that it would soon become law and enable a large number of persons in need to have access to the services of a lawyer. At present it was the Court of Appeal that was competent to grant legal aid, but only in criminal cases.

34. Turning to question 10 of the list, he gave the explanation requested concerning the provisions of the Optional Protocol. He briefly reviewed the decision handed down by the Judicial Division of the Privy Council in the Pratt and Morgan v. Attorney-General case in 1993, according to which the period which had elapsed between a sentence of capital punishment and execution of the punishment constituted inhuman treatment or punishment if it extended beyond a certain period, in breach of section 17 of the Constitution. The Jamaican authorities had then had to reflect on means of speeding up the proceedings so as to comply with a decision calling on them to ensure that execution followed the handing-down of the sentence as rapidly as possible, taking account of a reasonable period for appeal proceedings. The Judicial Division of the Privy Council had first considered that the period between sentencing and execution should not exceed five years, after which it had reduced that period. In other words, the system of allowing the convicted prisoner opportunities to vindicate all his rights and to avoid death had been the victim of its own generosity since it had come to be considered as inhuman.

35. In those circumstances, the Jamaican authorities had first decided to review all death-row cases. An amendment of the Offences against the Person Act had been voted, establishing a distinction between murders carrying the death penalty and murders not carrying that penalty, after which the number of convictions for murder carrying the death penalty had fallen considerably. Consequently, and in accordance with the other recommendations of the Human Rights Committee, the total number of persons sentenced to death, which had been around 300, was now 49. The authorities had also reviewed the internal measures to be taken in order to shorten the duration of proceedings, given the fact that the Jamaican judicial system offered the accused six levels of procedure, to which should be added to possibilities of appeal to international jurisdictions, apart from the constitutional motion which served to challenge numerous decisions.

36. It should not be forgotten that before addressing the Human Rights Committee or some other international body, the aggrieved party must have exhausted all internal remedies. The Jamaican authorities had therefore proceeded to introduce a number of measures intended to rationalize the judicial procedures for persons on death row, so as to shorten the duration of appeal proceedings as far as possible. The result was that today it took less than six months for an appeal to come before the Court of Appeal. Those reforms had been effected in the light of the need to avoid infringing the constitutional rights of Jamaican citizens. It had been estimated that it would be possible to reduce the total duration of the various procedures to three or four years, taking account of constitutional remedies.

37. There remained the question how to reduce time-lags in procedures before the various international human rights bodies. In that connection, he, as Solicitor-General, had held two consultations with the Human Rights Committee, one in 1994 and the other in 1996. For their part, the Jamaican authorities had proposed that the question of admissibility and the communication as to substance should be examined jointly in a single stage. They had also requested the Committee to send them each communication within one month following receipt by the secretariat and had themselves undertaken to reply within one month instead of the six months provided for by the rules of procedure. They had requested the Committee to respond to the State party within six months. Admittedly, the Committee was not in continuous session and was subject to budgetary constraints, but it was important to keep to that kind of schedule in order to try to resolve the time-lag problem.

38. The Jamaican authorities were convinced that prisoners under sentence of execution should be given every possible chance of avoiding death. In their view, being able to preserve such chances was far more important than the inhuman character, whether real or imagined, of the lengthening of procedural delays. In any event, experience had shown that, despite all the efforts made and all the measures taken, delay persisted in judicial procedures, and a situation of de facto abolition of the death penalty practically existed in Jamaica at present. However, public opinion was completely opposed to abolition. Crime and violence had attained alarming levels and the Government was obliged to take account of the actual situation in the country.

39. In those circumstances, the notification of the Governor-General was completely in conformity with the practices which the Jamaican authorities wished to be applied. As he had already had occasion to say, a country should not be criticized, on the grounds that it gave convicted prisoners numerous opportunities of asserting their rights and defending their case, because its judicial system had become an instrument of inhumanity. That was a genuine dilemma.

40. The situation had reached a point where his Government had become the target of numerous criticisms for what public opinion considered as its incompetence, in other words, its inability to enforce Jamaican law as it existed. Those were the circumstances which had induced the Jamaican authorities to take the measure which he now intended to announce to the Committee: by a communication received in Geneva on 22 October, the Jamaican Ministry of Foreign Affairs requested him to inform the Committee that, in view of the extraordinary difficulties confronting the Jamaican Government and

the fact that it was impossible for it to deal with the situation satisfactorily, it had decided to transmit to the Secretary-General of the United Nations, on 23 October at 11 a.m., New York time, an instrument of withdrawal from the Optional Protocol. His Government considered itself still bound by the obligation set forth in the Covenant itself.

41. It was with deep regret that he announced that measure since, over the past three years, he had engaged in an intensive dialogue with the Committee with the aim of trying to find a solution to the situation. Unfortunately, Jamaica was forced to conclude that it was impossible for it to comply with the decisions rendered by its highest judicial bodies while at the same time observing the procedures established in the Optional Protocol.

42. Ms. MEDINA QUIROGA said she was deeply saddened by what she had just heard and recalled that Jamaica was still bound by the obligations set forth in the Covenant. The Jamaican delegation had described the difficulties, notably the economic difficulties, which were impeding the implementation of the Covenant in Jamaica, and she acknowledged that some obstacles were indeed difficult to overcome. However, States parties to the Covenant had international obligations and some actions were not necessarily dependent on economic resources and respect for civil and political rights, which was fundamental for the ideal of a stable democracy, was not contrary to a country's economic interest.

43. In paragraph 38 of the core document concerning Jamaica (HRI/CORE/1/Add.82), it was stated that no special legislation had been enacted to ensure that the provisions of a Covenant were implemented by the courts, but those provisions were substantially similar to those of chapter III of the Constitution, which dealt with the fundamental rights and freedoms of the individual. She had consulted the Constitution and considered that the list of rights embodied in it was not as complete as that contained in the Covenant. In particular, the possibility of restricting the various rights seemed to be more extensive in the Jamaican Constitution than in the Covenant: she had in mind section 16, paragraph 3 (a), and sections 4, 19 and 21 of the Constitution.

44. In her view, however, one of the major problems posed by the implementation of the Covenant in Jamaica concerned discrimination, prohibition of which was a principle which applied to all the rights protected by the Covenant (art. 2, para. 1). In that connection, section 13 of the Constitution was narrower in scope than article 2, paragraph 1, of the Covenant, and section 24, paragraph 3, of the Constitution failed to mention sex in the definition of discrimination. There were admittedly plans to amend section 24, paragraph 3, of the Constitution, but there were other provisions which concerned discrimination in the same section, namely in paragraphs 4 (a), (b) and (d), 7 and 8.

45. With regard to discrimination involving children, it was stated in paragraph 133 of the report that the Status of Children Act had removed the status of illegitimacy, with the result that all children were treated alike, albeit with exceptions; however, those exceptions raised questions with regard to article 2 of the Covenant. Furthermore, it was stated, discrimination was less strong in the public sector than in the private sector. Was there a law

prohibiting discrimination in private companies, or was such a law envisaged? For example, according to a UNICEF report, some children were subjected to strong discrimination, based in particular on religion. Did that discrimination exist only in private schools or also in State schools?

46. On the question of article 3 of the Covenant (equality between men and women), the delegation had spoken of a "matriarchal society" in Jamaica. In that case, why was there a Women's Crisis Centre (para. 15 of the periodic report)? And why was there a campaign for the improvement of the situation of women in society? She had taken due note of the proposed amendments to legislation and concluded that much remained to be done with regard to women. In particular, she would like to know whether there was, with regard to nationality, any difference in treatment that placed women married to foreigners at a disadvantage, since the provisions cited in paragraph 131 of the periodic report had not really provided clarification on that point.

47. Jamaican law did not appear entirely compatible with articles 9 and 14 of the Covenant (detention, confession, appeals, etc.). According to the periodic report (para. 44), the provision contained in article 9, paragraph 2, of the Covenant appeared in almost identical terms in section 15, paragraph 2, of the Constitution, which was not correct. She would like to know whether there were rules of interpretation concerning what might be regarded as a reasonable period within the meaning of section 15, paragraph 2, of the Constitution. Under Jamaican legislation a person could be held in custody for eight days or more before being brought before a judge. Were there really statutory time limits, since the cases brought before the Committee seemed to show that the practice of prolonged detention was fairly widespread. She would also like to know whether the detention of vagrants or suspects had been abolished and whether there was a time limit beyond which a young offender could not be held in a police station.

48. The main problem arising under article 14 of the Covenant seemed to be that of legal aid. The delegation had announced an amendment of the relevant legislation - the Poor Prisoners' Defence Act. It would be interesting to know how legal aid would operate in the case of a person held in police custody, given the fact that only the court or a judge could grant such aid. Would the assistance be provided for an application for habeas corpus? Would it be available for the defence of accused persons liable to the death penalty? Would it be possible, through internal regulations, to ensure that only experienced lawyers were entrusted with such cases? And lastly, would shorter time limits be set for the handing-down of written judgements, which in some cases took years, a fact which greatly slowed proceedings?

The meeting rose at 12.55 p.m.